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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic report of States parties due in 1994

Addendum

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND*

[2 August 1995]

Part Two

DEPENDENT TERRITORIES

Hong Kong

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* For the first part of the thirteenth periodic report submitted by the Government of the United Kingdom, see document CERD/C/263/Add.7. For the eleventh and twelfth periodic reports and the summary records of the meetings of the Committee at which those reports were considered, see:

Eleventh periodic report - CERD/C/197/Add.2 (CERD/C/SR.907-908);
Twelfth periodic report - CERD/C/226/Add.4 (CERD/C/SR.996-998).

The information submitted by the United Kingdom with respect to its dependent territories in accordance with the consolidated guidelines concerning the initial part of reports of States parties is contained in the core document (HRI/CORE/1/Add.6).

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Introduction

1. In its concluding observations on the twelfth periodic report of the United Kingdom and its dependent territories, the Committee raised a particular issue which was applicable to all the dependent territories, including Hong Kong. Since the present report in respect of Hong Kong is being submitted in advance of those in respect of the other dependent territories, it is hoped that the Committee will find it helpful if that particular issue is addressed in general terms - because it is a general issue which goes wider than Hong Kong - at this point so that the remainder of this report can be devoted to matters specifically relating to Hong Kong.

2. In paragraph 10 of its concluding observations the Committee expressed its concern that the Convention had not been incorporated in the domestic legislation of the territories and cannot be invoked in the courts. In paragraph 15 it accordingly recommended that the Convention should be incorporated into the domestic legislation of the dependent territories. The United Kingdom Government has, of course, given very careful consideration to the Committee's views on this matter and to its recommendation. But, with great respect, it is unable to agree that the express incorporation of the Convention into the domestic law of the territories either is required as a matter of legal obligation or would be the most appropriate way of ensuring the implementation of the Convention in the territories.

3. As the Committee is doubtless aware, under the Common Law system which operates in the territories, as in the United Kingdom itself, treaties which apply to the territories do not themselves have the force of internal law and cannot be directly invoked as a source of individual rights or obligations, though the courts are required to construe domestic legislation, when possible, in such a way as to avoid incompatibility with the United Kingdom's international legal obligations. In order to ensure full compliance with its treaty obligations, the practice of the United Kingdom and its dependent territories is therefore as follows. In the case of many such obligations, examination of the position established by existing law and practice reveals that it is already fully in conformity with those obligations; and in those cases no further legislation or other measures are required. But where it is ascertained that the treaty obligations do require some change (by way of addition or alteration) to existing law or practice, the usual method of effecting that change is to enact specific new legislation - which may or may not take the form of reproducing the exact terms of some or all of the provisions of the treaty in question: this is a matter of legislative technique rather than of substance - or to amend existing legislation or to adapt existing administrative practices, as the case may require. In the specific case of the International Convention on the Elimination of All Forms of Racial Discrimination, it is the considered view of the Government of the United Kingdom and the Governments of the dependent territories that the obligation which that Convention imposes can be fully and effectively discharged by the application of the usual procedures for that purpose, as just described, and that the express incorporation of the provisions of the Convention into domestic law would therefore be an unnecessary departure from the United Kingdom's established practice in these matters.

4. The foregoing does not, of course, detract in any way from the willingness of the Governments of the United Kingdom and the dependent territories, in accordance with the procedures just described, to procure the enactment of new legislation specifically for the purpose of satisfying particular requirements of the Convention in any case where it is established that the existing law is, in one respect or another, defective for that purpose.

5. As explained above, the above response to the Committee's observations and recommendation is applicable to the position in all the United Kingdom's dependent territories. The remaining paragraphs of this report concern Hong Kong only.

I. GENERAL

6. The Committee is referred, as essential background to the whole of this report but with special reference to the provisions of article 1 of the Convention, to the core document (the "country profile") for Hong Kong (and to the relevant legislation submitted therewith). That document is now supplemented by the following further information and explanatory material which may be helpful to the Committee in relation to article 1 of the Convention.

Policy on elimination of racial discrimination

7. The Government of Hong Kong subscribes to the principle of equality between persons of different race, colour, language, national or social origin. The Bill of Rights Ordinance (see the core document* and para. 10 below) ensures that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In conformity with article 2 (1) (c) of the Convention, the Government has taken steps to amend legislation to ensure compatibility with the Bill of Rights (see also paras. 18 and 19 below).

8. Hong Kong is an open, progressive and dynamic society where people of different race, colour and origin live in peace and harmony. Isolated incidents reflecting possible discriminatory attitudes have occurred, but public pressure has been effective in resolving the conflicts at an early stage.

Legal framework within which racial discrimination is prohibited and eliminated and the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social and cultural or any other field of public life are promoted and protected

9. In enacting legislation, the Governor is prohibited, by virtue of the Royal Instructions, from giving his assent to any bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities

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* As of the date of publication of the present report, the core document had not yet been issued. The legislation referred to is available for consultation in the files of the secretariat.

or restrictions to which persons of European birth or descent are not also subjected or made liable, unless he has had prior permission from Her Majesty's Government to do so.

10. The Bill of Rights Ordinance, incorporating into Hong Kong law the provisions of the International Covenant on Civil and Political Rights (ICCPR) as applied to Hong Kong was enacted in June 1991. The Ordinance binds the Government and all public authorities. Articles 1 and 22 of the Bill of Rights prohibits discrimination based on such ground as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. While article 1 only protects the rights which are recognized in the Bill, article 22 provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

11. To complement the protection afforded by the Bill of Rights, the Letters Patent, Hong Kong's principal constitutional document, have been amended so as to ensure that no law can be made in Hong Kong that restricts the rights and freedoms enjoyed in Hong Kong in a manner which is inconsistent with the ICCPR as applied to Hong Kong. The Amending Letters Patent (see the core document) came into operation at the same time as the Bill of Rights Ordinance. The equal enjoyment of rights and equal protection of the law regardless of one's race, colour or national or ethnic origin, as guaranteed in the Covenant, have thus been strengthened.

12. Since April 1989, all new principal legislation and most new subsidiary legislation have been drafted in English and Chinese. Pre-existing legislation drafted in English is also being rendered into Chinese. At the end of November 1993, about 277 Ordinances out of 528 Ordinances (together with their accompanying subsidiary legislation and new amendments) have Chinese drafts at various stages of completion. Out of these 277 Ordinances, 107 have been examined by the Bilingual Law Advisory Committee. Those Ordinances so far examined by the Committee relate mainly to subjects most likely to be of use to large sections of the public or those Ordinances most frequently used in lower courts. To date, Chinese texts of 13 Ordinances and the list of Short Titles have been declared authentic. It is expected that the whole process of rendition will be completed in 1995. The English and Chinese texts of legislation are equally authentic for legal purposes.

Ethnic characteristics of Hong Kong

13. According to the most recent estimate, the population of Hong Kong at the end of 1993 was 6,019,900.

14. There is no up-to-date information on the racial characteristics of the population of Hong Kong. Information on place of birth, which is not the same as race, was elicited in the 1991 Population Census. According to the 1991 Population Census, 5,522,300 residents were enumerated, of whom 3,299,600 (59.8 per cent) were born in Hong Kong, 1,967,500 (35.6 per cent) in China, including Macau and Taiwan, and the remaining 255,200 (4.6 per cent) in various other countries. Details are shown below.

1991 Hong Kong Population Census

Number of enumerated residents, by place of birth

	Number	Per cent
Hong Kong	3 299 600	59.8
China (including Macau and Taiwan)	1 967 500	35.6
Philippines	66 100	1.2
Indonesia	40 700	0.7
United Kingdom	23 700	0.4
India, Pakistan, Bangladesh and Sri Lanka	14 300	0.3
Thailand	14 100	0.3
Malaysia	12 800	0.2
Japan	11 200	0.2
United States of America	11 200	0.2
Viet Nam	10 300	0.2
Elsewhere	50 800	0.9
Total	5 522 300	100.0

15. The 1991 Population Census also asked about the usual language/dialect of each resident. This referred to the language/dialect that the resident would use to speak to other family members. Although usual language may differ from mother tongue, figures in the table below give additional information on the ethnic mix of the population:

Proportion of population aged 5* and over, by usual language/dialect, 1991

Usual language/dialect	Per cent
Cantonese	88.7
Putonghua	1.1
Other Chinese dialects	7.0
English	2.2
Japanese	0.2
Filipino	0.1
Indonesian	0.1
Hindi	0.1
Others	0.5

* Excluding dumb persons.

II. ARTICLES 2 TO 7

Article 2

16. Article 22 of the Bill of Rights effectively prohibits public authorities in Hong Kong from engaging in any practice that discriminates on the basis of race.

17. Under the Commissioner for Administrative Complaints Ordinance (see the core document), the Commissioner for Administrative Complaints is empowered to investigate complaints against maladministration of government departments and major statutory organizations. Maladministration includes any action which is unreasonable, unjust, oppressive or improperly discriminatory or which is in accordance with a practice which is or may be unreasonable, unjust, oppressive or improperly discriminatory.

18. Since the enactment of the Bill of Rights Ordinance, the Hong Kong Government has conducted a review of legislation to ensure that existing laws are compatible with the Bill of Rights. So far 14 amending bills have been enacted to amend 26 existing pieces of legislation for compatibility with the Bill of Rights; more amendments are in the pipeline. The review of legislation is an ongoing exercise and will take into account developments in local human rights jurisprudence.

19. One recent amendment removed a provision for differential treatment on the ground of race that was considered to be inconsistent with article 22 of the Bill of Rights. The provision in question was contained in the Brewin Trust Fund Ordinance and restricted eligibility to apply for grants from the trust fund governed by the Ordinance to persons of Chinese race. While there may have been sound social reasons for this preferential treatment when the Ordinance was enacted, it is not considered justified under current circumstances.

20. There are currently no antidiscrimination laws in Hong Kong apart from the Bill of Rights Ordinance which binds only the Government and public authorities. The Hong Kong Government is taking action to introduce specific legislation to prohibit discrimination on the grounds of sex and disability, in both the private and the public sector. As antidiscrimination legislation is a relatively new area of law, of which Hong Kong has little experience, the approach adopted by the Hong Kong Government has been to start first with a more confined scope, concentrating on areas where there is a clear need and public demand for action. This will permit the effect of such legislation to be tested in a focused manner, allow time for the community to adjust and adapt to the new norms set by the legislation and enable the Government to deal with any problems that may arise as a result of the legislation. This is in line with the Hong Kong Government's well-tested and effective step-by-step approach to new forms of legislation such as this. After there has been sufficient experience with the legislation dealing with discrimination on grounds of sex and disability, consideration will be given to the need for comparable legislation in other areas, including racial discrimination.

21. Schools and colleges have continued to give instruction to bring about greater appreciation of the achievements of different cultures. More emphasis has also been placed on civic education to foster a greater degree of understanding, interaction and interdependence within the community.

Cultural, recreational and sporting activities

22. No distinction is made by the Hong Kong Government on racial, ethnic or religious grounds in providing cultural recreational and sporting facilities and financial support. Regardless of race, Hong Kong people have equal opportunities to participate in all cultural, sporting and recreational activities. It is the policy of the Hong Kong Government to promote the development and appreciation of, and participation in, the arts with a view to improving the quality of life of the whole community. It is also the policy of the Hong Kong Government to promote sports, both in terms of excellence and at the grass-roots level, for the community as a whole. Major sports, open championships, international events and territory-wide, regional and district events are open to all.

Treatment of special groups

23. Foreign workers. There are different categories of foreign workers in Hong Kong. Among them are professionals and others with technical expertise or administrative and managerial skills from outside Hong Kong. In addition, there are foreign domestic helpers and skilled workers who entered Hong Kong for employment. Except to the extent that particular laws may distinguish, for particular purposes, between citizens and non-citizens, all these foreign workers are treated equally before the law with other persons in Hong Kong and enjoy the same rights and freedoms, and there is no discrimination against them on the grounds of their race, colour, descent or national or ethnic origin.

24. The Labour Department provides conciliation services to all workers, including foreign workers of different categories, when there is a dispute on conditions of employment between them and their employers. It also assists the workers to pursue their claims through the appropriate legal channels if both parties fail to reach a settlement. Foreign workers who have any queries related to their statutory rights under relevant labour legislation are given free access to briefing and counselling services provided by the Labour Department.

25. The number of foreign domestic helpers in Hong Kong now exceeds 100,000. Most of them come from the Philippines. They constitute such a fast-growing community that the Hong Kong Government has found it necessary to examine the extent to which their need for recreational outlets has been met by the existing level of facilities. The preliminary plan is to identify desirable venues to develop facilities that would meet the special needs of this group of population.

26. Vietnamese refugees. Vietnamese refugees in Hong Kong who are awaiting resettlement overseas are accommodated in an open centre which is funded and managed through the office of the United Nations High Commissioner for Refugees. Apart from a requirement that they must reside in the centre,

they enjoy the same rights and freedoms as other persons in Hong Kong and are treated equally before the law, and there is no discrimination against them on the grounds of their race, colour, descent or national or ethnic origin.

27. Vietnamese migrants. Vietnamese migrants who have been screened out as non-refugees in accordance with the 1951 Convention and the 1967 Protocol relating to the Status of Refugees are returned to Viet Nam as illegal immigrants and are in the meantime detained in detention centres. The status determination criteria for the screening process are those recommended by the United Nations High Commissioner for Refugees (UNHCR) and the procedures were devised in consultation with UNHCR and contain checks and balances to ensure that they are administered as fairly as possible. The treatment of the Vietnamese migrants under detention is subject to the detention centres rules which have been reviewed and, where necessary, revised having regard to the provisions of the Bill of Rights Ordinance. In addition, Vietnamese migrants have access to lawyers, non-governmental organization workers and UNHCR field officers, and they are also allowed to be visited from time to time by friends and relatives. There are regular visits to detention centres by justices of the peace, members of Parliament, legislative councillors District Board members and journalists. The presence of UNHCR officers in Hong Kong's camps also ensures that any mistreatment of the Vietnamese migrants will be immediately brought to the attention of the proper authorities. Subject to the restrictions inherent in their status as detained persons awaiting return as illegal immigrants, Vietnamese migrants enjoy the same rights and freedoms as other persons in Hong Kong and are treated equally before the law, and there is no discrimination against them on the grounds of their race, colour, descent or national or ethnic origin.

Article 3

28. Neither apartheid nor any other form of racial segregation is practised in Hong Kong, nor would it be tolerated by the Government or people of Hong Kong. So far as concerns apartheid as formerly practised in South Africa, it is to be noted that Hong Kong, as a dependent territory of the United Kingdom, applied and enforced the applicable United Nations sanctions until, following the first all-race multiparty elections and the establishment of a democratic and non-racial Government in South Africa, the United Nations revoked all its remaining measures against South Africa in May 1994. Hong Kong then also lifted all of its previous sanctions against South Africa.

Article 4

29. As stated in paragraph 20 above, it is the intention of the Hong Kong Government, after there has been sufficient experience with the operation of the projected legislation against discrimination on grounds of sex and disability, to give consideration to the need for comparable legislation against racial discrimination.

30. With regard to the particular provisions of paragraphs (a) and (b) of article 4, the United Kingdom Government's interpretation of the effect of these two provisions, which is set out in paragraph 30 of its thirteenth periodic report under the Convention in respect of the United Kingdom itself

(i.e. the metropolitan territory), is of course equally applicable to their effect in respect of Hong Kong. For reasons similar, mutatis mutandis, to those explained in paragraphs 31-36 of that report, but having regard especially to the fact that activities and organizations of the kind at which paragraphs (a) and (b) of article 4 are directed are at present virtually unknown in Hong Kong, the Hong Kong Government does not consider that it is necessary or desirable to introduce additional legislation specifically to make all such activities and organizations illegal. It must be made clear, however, that the existing law of Hong Kong already contains adequate provision which would enable any racially motivated acts of violence (or the incitement to such acts) and any activities, whether of individuals or organizations, aimed at inciting racial hatred, to be effectively punished or suppressed. Thus, the general criminal law of Hong Kong proscribes acts of violence of various kinds, as well, of course, as the incitement of others to commit such acts. So far as organizations are concerned, under section 8 of the Societies Ordinance an order may be made prohibiting the operation of a society where it is considered that its operation may be prejudicial to the security of Hong Kong or to public safety or public order (ordre public).

31. With regard to paragraph (c) of article 4 of the Convention, article 22 of the Bill of Rights effectively prohibits public authorities in Hong Kong from engaging in any practice that involves racial discrimination within the meaning of the Convention. Attention is also drawn to paragraphs 57 and 58 below which describe the measures in force to prevent television and radio broadcasts containing material which is likely to incite racial hatred or is racially denigrating.

Article 5

32. None of the rights specified in article 5 is subject, in Hong Kong, to any restriction based on race, colour or national or ethnic origin.

33. In Hong Kong, all persons, regardless of their race, colour or national or ethnic origin, are equal before the law and have equal access to the courts. This always was the position and is now expressly provided for by, among other provisions, articles 1, 10 and 22 of the Bill of Rights. Legal aid is available to all persons if they satisfy the Director of Legal Aid on financial eligibility and justification for legal action. In addition, article 11 provides that any person charged with a criminal offence is entitled, in full equality, to legal aid where the interests of justice so require and without payment if he himself cannot pay for it. Both English and Chinese, being the official languages, are used in the lower courts. Although proceedings in the higher courts are conducted in English, ample interpretation facilities are provided for non-English speakers. Legislation has recently been introduced to enable the judiciary to give effect to an eight-phase implementation strategy which is aimed at putting into place, before 1 July 1997, a framework for the use of Chinese, along with English, in all judicial proceedings in Hong Kong. It is the Government's stated objective that more judicial posts be filled by local candidates.

34. The right to security of person is principally secured through the Offences against the Person Ordinance which makes it an offence in law to

assault or wound anyone. There is no distinction as to race, colour or national or ethnic origin. The penalty for committing such an offence varies depending on the gravity of the assault.

35. The Crimes (Torture) Ordinance provides that torture is an offence under the law of Hong Kong. Section 3 creates the offence of torture, defining it as the intentional infliction of severe physical or mental suffering by a public official, a person acting in an official capacity or another person at his instigation or with his acquiescence. A person convicted of torture is liable to life imprisonment.

36. Elections to the Municipal Councils and the District Boards are based on geographical constituencies. Elections to the Legislative Council are based on geographical as well as functional constituencies. As from September 1995, there will be an additional Election Committee constituency to elect Legislative Council members. The laws governing such elections to the Legislative Council, the Municipal Councils and the District Boards make no reference to race, colour or national or ethnic origin.

37. For the geographical constituency elections, the electoral franchise is based on residence, irrespective of race, colour or national or ethnic origin. Essentially everyone who is 18 years of age or over and who is a Hong Kong permanent resident is eligible to apply for registration as an elector in the constituency in which he lives. Where a person is a non-permanent resident, he is additionally required to have ordinarily resided in Hong Kong for the seven years immediately before his application. The electorate for functional constituency elections comprises, at present, either individual or corporate electors or a mixture of both. As from September 1995, the franchise will be significantly broadened. All corporate voting will be abolished and replaced by individual voting. The electorate for the Election Committee constituency will comprise all elected District Board members. The franchise for both the functional and Election Committee constituencies do not make any reference to race, colour or national or ethnic origin.

38. As for the qualifications for candidature in geographical constituency and the Election Committee constituency elections, every person who is a registered elector and has ordinarily resided in Hong Kong for the immediate preceding 10 years is eligible to be nominated. As for candidates for functional constituency elections, they must be registered geographical electors. In addition, they must either be registered electors of or have substantial connection with the relevant functional constituencies. There is no reference to race, colour or national or ethnic origin.

39. All Hong Kong residents, unless under lawful arrest or detention, enjoy the right to freedom of movement. They are free to travel and take up residence anywhere within the territory, irrespective of their race, colour or national or ethnic origin.

40. All Hong Kong residents are free to leave the territory unless under lawful arrest or detention or injunction of a court. Permanent residents of Hong Kong have the absolute right to return to Hong Kong. This right is provided for by law. It is not dependent on race, colour or national or ethnic origin.

41. Hong Kong is not a sovereign State and therefore does not have nationality laws of its own. Under the relevant United Kingdom legislation (the British Nationality Act 1981), the status of British Dependent Territories citizen (BDTC) can be acquired, by virtue of a connection with Hong Kong, through various means, e.g. by birth, by adoption or by naturalization. The possession of a particular race, colour or national or ethnic origin is neither a requirement for, nor an impediment to, the acquisition of that status. There is also a quasi-nationality status of permanent resident of Hong Kong, which is automatic for all persons who are BDTCs by virtue of their connection with Hong Kong. Again, there is no discrimination against any person on grounds of race, etc. In addition, the status of permanent resident can be acquired by persons of Chinese race who have resided in Hong Kong continuously for seven years. This additional right for ethnic Chinese takes account of Hong Kong's historical background and close relationship with China. (Chinese immigrants make up the largest group entering Hong Kong for permanent settlement every year.) The major difference between a permanent and a non-permanent resident is that the former has the right to land unconditionally and not to be deported. Practically speaking, permanent resident status is not relevant to the enjoyment of welfare, educational, medical and other social facilities. Moreover, a non-ethnic Chinese may acquire permanent resident status by becoming naturalized as a BDTC.

42. In paragraph 10 of its concluding observations on the twelfth periodic report of the United Kingdom and its dependent territories, the Committee expressed its concern at what it regarded as the discriminatory provisions of the British Nationality (Hong Kong) Act 1990. This concern appears to be based on a misconception of the purpose and effect of that Act. Its main purpose is to facilitate the acquisition of British citizenship by key Hong Kong workers (and their families) who would otherwise not be in a position to claim it and thereby give them confidence to remain in Hong Kong up to and beyond 1997, when sovereignty over the territory will be transferred to the People's Republic of China. The Act provides for up to 50,000 heads of household to be granted citizenship. These are selected on the basis of their actual and potential contributions to the smooth running, stability and prosperity of Hong Kong. It is expressly provided by section 2 (3) of the Act that section 44 (1) of the British Nationality Act 1981 shall have effect as if included in it. Section 44 (1) provides that any discretion vested in the Secretary of State or a Governor shall be exercised without regard to the race, colour or origin of any person who may be affected by its exercise. Successful applications under the 1990 Act come from a wide range of backgrounds, income levels and occupations. The grant of citizenship is being confined to 50,000 principal beneficiaries because of the need to strike a balance between maintaining confidence in Hong Kong and limiting potential immigration into the United Kingdom.

43. Every Hong Kong resident has an absolute right, without distinction as to race, colour or national or ethnic origin, to marry and to choose his or her spouse. Marriage between two persons of different ethnic origins is common and well accepted in Hong Kong.

44. The rights mentioned in article 5 (d) (v) and (vi) (the right to own property and the right to inherit) are secured in Hong Kong by a combination of statutory and common law. Article 22 of the Bill of Rights ensures that all relevant laws are applied in a non-discriminatory fashion.

45. The rights mentioned in article 5 (d) (vii) (freedom of thought, etc.), (viii) (freedom of opinion and expression) and (ix) (freedom of assembly and association) are specifically secured by articles 15, 16, 17 and 18 of the Bill of Rights. Article 1 of the Bill of Rights provides that they shall be enjoyed without distinction of any kind, such as race, colour or national or social origin.

46. In Hong Kong, everyone, without distinction as to race, colour or national or ethnic origin, has the right to work. There is freedom of choice of employment for all persons (save that the employment of women and young persons, again without distinction as to race, etc., is prohibited in certain trades or work processes which are likely to jeopardize their safety, health and welfare). As regards the rights to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work and to just and favourable remuneration, they are enjoyed by all workers regardless of race, colour or national or ethnic origin.

47. There is also no racial discrimination in any form in respect of employment benefits, welfare and protection. These benefits are available, without any such discrimination, to all workers of foreign origin in Hong Kong, including foreign domestic helpers and indeed to all employees. Workers from outside Hong Kong, regardless of their countries of origin, are given equal treatment in the employment sphere with the general population in Hong Kong. Persons from overseas (whatever their race) will not be admitted to Hong Kong for employment unless their prospective employers are prepared to offer them employment terms no less favourable than those which are offered to local workers, and the labour legislation relating to employment benefits and protection applies in the same way to foreign workers, irrespective of their race, colour or national or ethnic origin, as to local workers.

48. There is also no distinction as to race, etc., regarding the right to form and join trade unions. This right is secured by article 18 of the Bill of Rights and, again, article 1 of the Bill of Rights requires that it is to be enjoyed without distinction of any kind, such as race, colour or national or social origin.

49. The recruitment policy of the Hong Kong Government has been for many years to appoint suitable and qualified local candidates to positions in the public service, but no discrimination is made on the basis of race. The recruitment of overseas candidates is undertaken only when local candidates are not available or are available in insufficient numbers. To cater for the different needs of overseas candidates, a different set of terms and conditions of service has been offered to these candidates. However, under present day circumstances, the differences in terms and conditions of service have become less necessary. The Government has therefore proposed one set of common terms of appointment and conditions of service for general application in future.

50. There are 189,927 officers in the public service as at 1 April 1994, comprising 187,901 (98.9 per cent) officers on local terms and conditions of service and 2,026 (1.1 per cent) officers on overseas terms and conditions.

51. The right to be allocated public housing is based on an applicant's housing need, and is enjoyed without distinction as to race, colour or national or ethnic origin. There is special provision to address the housing needs of indigenous villagers and their families in rural areas in the New Territories of Hong Kong. A male indigenous villager is entitled to apply for permission to erect for himself and his family, during his lifetime, a small house on his own agricultural land within his own village. Alternatively he may apply for the grant, at a concessionary premium, of a site on government land for the same purpose (in which case, if he later sells the house, he must pay the balance of the full market premium). The restriction of this facility to indigenous villagers reflects the traditions and customs of the indigenous communities where heads of households were traditionally male and women moved away from their villages upon marriage.

52. The right to receive medical care, social security and social services is enjoyed without distinction as to race, colour or national or ethnic origin.

53. There is no discrimination on grounds of race, colour or national or ethnic origin in the enjoyment of the right to education and training.

54. There is no racial discrimination in any form with respect to the right to participate in cultural activities.

55. The effect of article 22 of the Bill of Rights is that all laws which regulate the right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks, must not be discriminatory either in their terms or in their practical application.

Article 6

56. Any act of racial discrimination by the Government or any public authority of Hong Kong (or by any person acting on behalf of that Government or any such authority) would constitute a breach of the Bill of Rights Ordinance. Section 6 of that Ordinance provides that a court or tribunal, whether in proceedings within its jurisdiction for a breach of the Ordinance or in other proceedings within its jurisdiction in which a violation or threatened violation of the Bill of Rights is relevant, may grant such remedy or relief, or make such order, in respect of such a breach, violation or threatened violation as it has power to grant or make in those proceedings and as it considers appropriate and just in the circumstances. In most cases the remedy or relief granted by the court or tribunal could be expected to include an award of financial compensation. However, there would not necessarily be such an award in every case. In this connection, the Committee's attention is drawn to paragraph 110 of the United Kingdom Government's thirteenth periodic report under the Convention in respect of its metropolitan territory. What is said there is, of course, equally applicable to the operation of article 6 of the Convention in respect of Hong Kong.

Article 7

57. Since the twelfth periodic report in respect of Hong Kong under the Convention a new statutory provision has been introduced to prohibit local television licensees from broadcasting any programme, advertisement, announcement or other material that is likely to incite hatred against any group of persons, defined by reference to colour, race, sex, religion, nationality or ethnic or national origin.

58. Codes of Practice on Programme Standards for television and radio broadcasts in Hong Kong also contain provisions to forbid the broadcast of any programme which is likely to encourage hatred against or fear of, and/or considered to be denigrating or insulting to, any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, religion, age, social status or physical or mental disability.

59. In Hong Kong, teachers are encouraged to promote respect and appreciation for the achievements of other cultures. Human rights and the elimination of discrimination are taught through the formal curriculum on social studies, economics, public affairs and geography, as well as through extracurricular activities. In the 1993/94 school year the Hong Kong Government organized talks and workshops on human rights for teacher trainees.

60. In Hong Kong, students are taught to understand the basic concepts of human rights and the culture, characteristics and achievements of different racial communities. Efforts have also been made through the school curriculum and civic education programmes to foster positive attitudes of awareness and acceptance of human rights among students.

61. In May 1992, a Human Rights Education Sub-Committee was set up under Hong Kong's Committee on the Promotion of Civic Education to promote human rights education among the general public. Since then it has been involved in a number of successful projects and activities. These include community participation schemes on human rights projects; production and distribution of picture books to arouse interest in human rights; production and dissemination of human rights messages on a free telephone "information line"; radio and television programmes on human rights; production of teaching kits for secondary schools; large-scale exhibitions; and seminars and topical discussion sessions. Over the next three years, an extra $20 million will be granted to the Committee on the Promotion of Civic Education to expand its educational programmes on equal opportunities and human rights. The Committee will also establish a full-time educational unit to develop human rights education materials and programmes.

62. The Hong Kong Government has in the past produced and made available to the public various human rights documents and introductory booklets in both English and Chinese. These include the text of the International Convention on the Elimination of All Forms of Racial Discrimination and the twelfth periodic report in respect of Hong Kong under the Convention. The text of the present report will be tabled in the Legislative Council and distributed to the public and the media following its submission to the United Nations for consideration by the Committee.